

DECISION



11700 *Barkin*
THE COMPTROLLER GENERAL *Proc #*
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-196074

DATE: October 19, 1979

MATTER OF: Thermionics Laboratory, Inc.

DIGEST:

1. Protester's speculation that other offerors may have misinterpreted specification is insufficient basis upon which to conclude that offerors are not competing on an equal basis.
2. GAO will not review protest concerning proprietary data that directly or indirectly questions responsibility of other concerns.
3. GAO will not review protest that Government should procure item from protester on a sole-source basis. Matter involving possible misappropriation of proprietary data by potential awardees relates to dispute between two private parties and will not be resolved by GAO.

Thermionics Laboratory, Inc. protests contract award to any other bidder under request for quotations JR 7/26-1 for ion pump elements issued by Brookhaven National Laboratory, a Government-owned facility operating under a prime contract with the Department of Energy.

Thermionics believes it should receive the award because the ion pump elements are proprietary to Thermionics and no other firm can legally deliver the product. Moreover, the protester believes that other lower priced offerors are quoting something less than "part for part interchangeable" ion pump elements as required. In the alternative, Thermionics

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proposes that Brookhaven require technical proposals to determine whether any other offeror can meet the RFQ's specifications.

The protester, however, does not argue that other offerors have taken any exception to the requirement for ion pumping elements which are "part for part interchangeable" with the brand specified. It merely speculates that the interpretation given this requirement by other offerors must be for something less than what was intended. This is an insufficient basis upon which to conclude that the offerors are not competing on an equal basis. Cf. Courier-Citizen Company, B-192899, May 9, 1979, 79-1 CPD 323.

Moreover, whether any firm other than Thermionics has the capacity to furnish the ion pump relates to the responsibility of other firms. We have taken the position that if a protest concerning proprietary data directly or indirectly questions the responsibility of other concerns, the matter is not appropriate for our review. Worthington Pump, Inc., B-192385, October 11, 1978, 78-2 CPD 267.

Generally, this Office does not consider it appropriate to review a protest that an agency should procure an item from a particular firm on a sole-source basis. Holosonics, Inc., B-192414, October 17, 1978, 78-2 CPD 282. In this connection, Thermionics' allegation that award to any other firm will violate its proprietary rights relates to a potential dispute between private parties that is not for resolution under our bid protest function. Bogue Electric Manufacturing Company, B-194222, June 18, 1979, 79-1 CPD 431.

[The protest is dismissed.



Milton J. Socolar
General Counsel